MARTIN WALTERS E-86183
C.S.P. - SOLANO 6-206
P.O. BOX 4000
VACAVILLE, CA 95696
IN PRO SE

FILED
2007 DEC 21 AM 10:56
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY RM DEPUTY

NUNC PRO TUNC
DEC 19 2007

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MARTIN E. WALTERS PETITIONER, VS. D.K. SISTO, Warden, Respondent	CASE NO: 07CV2236 MOTION TO RECONSIDER DISMISSING PETITIONER'S 28 U.S.C. § 2241, HABEAS CORPUS PETITION; REQUEST TO PROCEED UNDER 28 U.S.C. § 2241; AND DECLARATION; With 3 exhibits.

ON 12-7-2007, PETITIONER RECEIVED AN ORDER FROM THIS COURT DISMISSING, WITHOUT PREJUDICE, HIS PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241; AND DENYING PETITIONER'S MOTIONS AS MOOT. (SEE ATTACHED AND INCORPORATED "ORDER" AS EXHIBIT A.)

THIS HONORABLE COURT MADE THE FOLLOWING FINDINGS

1. [H]E IS "A STATE PRISONER" AND
2. "ATTACKING THE VALIDITY OF A STATE COURT CONVICTION AND SENTENCE". (SEE PG. 1:21-22)

BASED UPON THESE FINDINGS, THE COURT, CONCLUDED PETITIONER "MAY ONLY PROCEED WITH A HABEAS ACTION IN FEDERAL COURT UNDER 28 U.S.C. § 2254." (SEE EXHIBIT A PG 1: 23-24.)

PETITIONER IS A LAYMAN AT LAW, AND INARTICULATE. HOWEVER WITH THE EXCEPTION OF GROUND 2 (CLAIMING THE STATE STATUTE UNDER WHICH PETITIONER'S CONVICTION WAS OBTAINED IS UNCONSTITUTIONALLY INVALID) PETITIONER THOUGHT HE IS ATTACKING "THE EXECUTION" OF HIS SENTENCE, NOT "THE VALIDITY OF HIS CONVICTION AND SENTENCES". THUS, PETITIONER CONCLUDED THAT 28 U.S.C. § 2241 WAS THE APPROPIATE APPLICATION.

PETITIONER IS UNDER THE PRESUMPTION THAT DESPITE THE INEXORABLE FACT THAT HIS GUILTY PLEA [redacted] (CONVICTION) WAS OBTAINED BY UNCONSTITUTIONAL MEANS, UNTIL HE WAS ACTUALLY DEPRIVED OF THE ACTS, e.g. OFFICIAL REFUSAL TO PERFORM. PETITIONER MAY ONLY ASK THIS COURT TO ENFORCE THE TERMS AND CONCOMMITANTS OF PETITIONER'S PLEA AGREEMENT.

IS THIS COURT SUGGESTING THAT THE ONLY WAY PETITIONER CAN ENFORCE THE TERMS OR CONCOMMITANTS THERE FROM, THIS PLEA AGREEMENT, IS TO CLAIM THAT HIS PLEA IS BROKEN AND THUS VOID ?

PLEASE ALLOW ME A MOMENT TO EXPLAIN, AT THIS STAGE PETITIONER IS SEEKING TO RECEIVE THE "MULTI JURISDICTION PRISONER INITIAL PAROLE HEARING" PERSUANT TO CAL. CODE OF REG'S TITLE 15 § 2370, AS THE PROVISION OF THE CONTRACTING PARTIES PRESUMED ON 5-9-90, PETITIONER KNOWS THAT THIS PARTICULAR HEARING, INTER ALIA, IS WHAT WAS THE EFFECTUATING LAW THAT ENSURED PETITIONER'S FREEDOM (NOT PAROLE CONSIDERATION) AT THE EXPIRATION OF PETITIONER'S FEDERAL

SENTENCE. THUS, PETITIONER PRESUMES THIS HEARING IS A CONCOMMITANT OBLIGATION FLOWING FROM HIS PLEA BARGAIN, AND TECHNICALLY MAY BE ENFORCABLE WITHOUT COLLATERALLY ATTACKING PETITIONER'S CONVICTION. TRUE OR UNTRUE? PETITIONER DOES NOT KNOW IF THIS IS POSSIBLE, HE DOES RECOGNIZE THAT THE COURT IN SANTOBELLO OVERTURNED THE CONVICTION, YET, IN OTHER CASES, THE COURTS (9TH CIR.) GAVE CHOICES OF RECISSION OR SPECIFIC PERFORMANCE AND THE SPECIFIC PERFORMANCE OPTION KEPT THE CONVICTIONS INTACT. THUS, PETITIONER REASONABLY CONCLUDED THAT HE MAY SEEK SPECIFIC PERFORMANCE WITHOUT NEEDING TO CHALLENGE HIS CONVICTION. BECAUSE THE QUID PRO QUO, OF WAVING HIS MOST VALUABLE CONSTITUTIONAL RIGHTS OF TRIAL ETC., WHICH BECAME AN CONCESSION THAT PETITIONER WAS BOUND TO LIVE WITH; IN EXCHANGE FOR, NOT ONLY THE STATES PROMISES, BUT THEIR OBLIGATIONS TO FULFILL THOSE INDUCEMENTS A.K.A. "THE CONCOMMITANTS" FLOWING THERE FROM. FURTHER, THE COURT HELD THAT CRIMINAL DEFENDANTS HAVE A DUE PROCESS RIGHT TO ENFORCE THE TERMS OF THE PLEA AGREEMENT. THE PRINCIPAL RULE IS SILENT ON WHEATHER THAT RIGHT REQUIRES THE TENSION BETWEEN THE VALIDITY OF THE CONVICTION AND THE REQUEST FOR JUDICIAL ORDER ENFORCING THOSE TERMS, PROMISES, INDUCEMENTS AND CONCOMMITANT OBLIGATIONS.

CONCLUSSION

PETITIONER CONCLUDES THAT HIS MULTIJURISDICTION PRISONER (STATUS) INITIAL PAROLE HEARING IS IN FACT A CONCOMMITANT OBLIGATION, IN THE EXECUTION OF HIS SENTENCE, THAT AROSE FROM THE PLEA BARGAIN, AND SO IS CONCURRENT TIME AND

WHOSE CUSTODY (FEDERAL) PETITIONER WOULD BE SERVED IN. (PLEASE SEE EXHIBIT B ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.) THUS, HE ASKS THIS COURT TO RECONSIDER ITS PRIOR ORDERS AND ALLOW HIM TO PROCEED PURSUANT TO 28 U.S.C. § 2241, UNTIL THE STATE REFUSES TO PERFORM ITS OBLIGATIONS. THEN PETITIONER WOULD LIKE TO COLLATERALLY ATTACK THE CONVICTION AND SENTENCE. IS THIS ACCEPTABLE?

Petitioner's situation is unique, the provisions and promises of Petitioner's plea agreement show, he is supposed to be in federal custody, and in petitioner's mind he is [redacted] a federal inmate housed in a State prison, who wants to go back to a federal prison. Despite these facts petitioner will prepare and submit a 28 U.S.C. § 2254 application attacking the Validity of conviction, despite the fact he wanted to simply enforce the plea's Terms. (with exception of ground 2).

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I, Martin E. Walters, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on December 10, 2007, in Vacaville California.

Martin E. Walters
Declarant

EXHIBIT COVER PAGE:

Exhibit: ______________

Description of this exhibit:

Number of pages of this exhibit:________pages

JURISDICTION: (Check only one)

_____Municipal Court

_____Superior Court

_____Appellate Court

_____State Supreme Court

_____United States District Court

_____United States Circuit Court

_____United States Supreme Court

_____California Department of Corrections, 602 Exhibit.

_____Other: ____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MARTIN EDWARD WALTERS, Petitioner, vs. DK SISTO, WARDEN, CSP SOLANO Respondent.	CASE NO. 07CV2236 **ORDER: (1) DISMISSING WITHOUT PREJUDICE PETITION FOR WRIT OF HABEAS CORPUS; (2) DENYING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AS MOOT; AND (3) DENYING MOTION TO APPOINT COUNSEL AS MOOT**

Petitioner, a prisoner proceeding pro se, has submitted a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 [Doc. No. 1], together with a motion for leave to proceed in forma pauperis [Doc. No. 2], and a motion to appoint counsel [Doc. No. 3.]

Although Petitioner filed this action pursuant to 28 U.S.C. § 2241, he is a state prisoner attacking the validity of a state court conviction and sentence imposed by the state of California. Therefore, Petitioner may not proceed under Section 2241, but may only proceed with a habeas action in federal court under 28 U.S.C. § 2254. White v. Lambert, 370 F.3d 1002, 1006-07 (9th Cir. 2004) (holding that Section 2254 is the proper jurisdictional basis for a habeas petition brought by an individual "in custody pursuant to a state court judgment"). Section 2254 is properly understood as "in effect implement[ing] the general grant of habeas corpus authority found in § 2241 as long as the person is in custody pursuant to the judgment of a state court, and not in state custody for some other reason, such as pre-conviction custody, custody awaiting extradition, or other forms of custody that are possible without a conviction." [citations omitted.] Id. at 1006 (quoting Walker v. O'Brien, 216 F.3d 626, 633 (7th Cir. 2000) (emphasis in original).

Therefore, this Court **DISMISSES** without prejudice the petition for habeas corpus, **DENIES** the motion for leave to proceed in forma pauperis as moot, and **DENIES** the motion to appoint counsel as moot.

IT IS SO ORDERED.

DATED: November 30, 2007

Janis L. Sammartino
Honorable Janis L. Sammartino
United States District Judge

UNITED STATES DISTRICT COURT

FOR THE

SOUTHERN DISTRICT OF CALIFORNIA

FILED
XX ENTERED
LODGED
RECEIVED

JAN 17 1991

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [signature] DEPUTY

UNITED STATES OF AMERICA

v.

MARTIN EDWARD WALTERS (1)

JUDGMENT INCLUDING SENTENCE UNDER THE SENTENCING REFORM ACT

CASE NO. 88-0769-G-Criminal

JAMES POKORNY
ATTORNEY FOR DEFENDANT

INMATE COPY

THE DEFENDANT:

XX pleaded guilty to count(s) ONE (1), TEN (10) and THIRTEEN (13),

____ was found guilty on count(s) ____________ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses;

Title & Section	Nature of Offense	Count Number (s)
21 USC 841(a)(1) & 846	CONSP. TO MANUFACTURE METHAMPHETAMINE AND POSSESS METHAMPHETAMINE W/INT TO DISTR.	ONE (1)
18 USC 2 & 26 USC 5861(d) and 5871	AIDING AND ABETTING THE POSSESSION OF AN UNREGISTERED FIREARM	TEN(10)
18 USC 2 & 924(c)(1)	AIDING AND ABETTING THE USE AND CARRYING OF A FIREARM DURING THE COMMISSION OF A DRUG TRAFFICKING CRIME	THIRTEEN(13)

The defendant is sentenced as provided in pages 2 through 5 of this judgment.
The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

____ The defendant has been found not guilty on count(s) ____________,

XX Count(s) OF S/S INDICTMENT REMAINING (is)(are) dismissed on the motion of the United States.

XXX The underlying indictment is dismissed on motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of his/her residence or mailing address until all fines, restitution(s), and costs imposed by this judgment are fully paid.

Defendant's Social Security Number: UNKNOWN

Defendant's Mailing Address: UNKNOWN

Defendant's Residence Address: UNKNOWN

172

Defendant: Martin Edward Walters (1)
Case Number: 88-0769-G-Criminal

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons, to be imprisoned on the following counts as indicated:

ONE(1) OF S/S INDICTMENT - TWO HUNDRED AND TWELVE (212) MONTHS

TEN(10) OF S/S INDICTMENT- CONCURRENTLY WITH COUNT ONE(1) - TEN(10) YEARS

THIRTEEN(13) OF S/S INDICTMENT - SIXTY (60) MONTHS CONSECUTIVE TO COUNT ONE(1)
(NOTE: TOTAL PERIOD OF INCARCERATION TWO HUNDRED AND SEVENTY TWO(272) MONTHS.

INMATE COPY

XX The Court makes the following recommendations to the Bureau of Prisons:
THAT THE PERIOD OF INCARCERATION IMPOSED BE SERVED IN A STATE INSTITUTION TO BE DESIGNATED BY THE STATE OF CALIFORNIA.

XX The defendant is remanded to the custody of the United States Marshal.

____ The defendant shall surrender to the United States Marshal for this district

____ at ______________ on ____________________.

____ as notified by the United States Marshal.

____ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.

____ before ___________p.m. on ____________________.

____ as notified by the United States Marshal.

____ as notified by the U.S. Probation Department.

RETURN

I have executed this judgment as follows:

____

____

____

Defendant delivered on ________________ to ________________

at ______________________________, with a certified copy of this judgment.

____
UNITED STATES MARSHAL

By: ______________________________

Defendant: Martin Edward Walters (1)
Case Number: 88-0769-G-Criminal

FINE WITH SPECIAL ASSESSMENT

The defendant shall pay to the United States the sum of:
$ 150.00 consisting of a fine of $ 0
and a special assessment of $ 150.00.

____ These amounts are the totals of the fines and assessments imposed on the individual counts as follows:

COUNT #1 of S/S Indictment - $50.00

COUNT #10 of S/S Indictment- $50.00

INMATE COPY

COUNT #13 of S/S Indictment- $50.00

TOTAL-$150.00

This sum shall be paid XXX immediately.

_____ as follows.

____ The Court has determined that the defendant does not have the ability to pay interest. IT IS ORDERED THAT:

____ The interest requirement is waived.

____ The interest requirement is modified as follows:

Defendant: Martin Edward Walters (1)
Case Number: 88-0769-G-Criminal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release as follows:

COUNT #1 - THREE (3) YEARS.
COUNT #10- THREE (3) YEARS.
COUNT #13- THREE (3) YEARS.

COUNTS#1,10 & 13 ARE TO RUN CONCURRENTLY FOR A TOTAL SUPERVISED RELEASE PERIOD OF THREE (3) YEARS.

INMATE COPY

While on supervised release, the defendant shall not commit another Federal, State or local crime and shall comply with the standard conditions that have been adopted by this Court (Set ~~forth following the additional~~ conditions). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions.

XXX DEFENDANT SHALL NOT ENTER MEXICO WITHOUT WRITTEN PERMISSION OF THE COURT.

XX the defendant shall not own or possess firearms, explosive devices or dangerous weapons of any kind.

XX the defendant shall submit to searches and seizures of his person, his personal effects, his residence or place of abode, any vehicle in his possession, conducted in a reasonable manner and at a reasonable time and place as requested by a Probation Officer.

XX the defendant shall report all vehicles he owns, operates, or has an interest in to h Probation Officer.

____ the defendant shall seek and maintain a program of full-time employment full-time education or a full-time combination of both.

XX the defendant shall participate in a drug/alcohol abuse counseling and treatment program, including urinalysis testing as directed by his Probation Officer.

____ if deported, formal supervision of probation is waived and the defendant shall not enter the United States unless he/she does so legally, and the defendant shall report to the U.S. Probation Department within twenty-four hours of h entry.

XX the defendant shall make complete disclosure of his business and financial records to his Probation Officer as requested.

____ the defendant is prohibited from opening checking accounts or incurring new credit charges or opening additional lines of credit without the approval of h Probation Officer.

____ as directed by h Probation Officer, the defendant shall notify third parties at risk that may be occasioned by a criminal record or personal history and permit h Probation Officer to make such notification and to confirm h compliance with such notification requirement.

STANDARD CONDITIONS OF SUPERVISON

1) the defendant shall not commit another Federal, State or local crime.
2) the defendant shall not leave the judicial district without the permission of the Court or Probation Department.
3) the defendant shall report to the Probation Officer as directed by the Court or Probation Department and shall submit a truthful and complete written report within the first five days of each month.

Defendant: Martin Edward Walters (1)
Case Number: 88-0769-G-Criminal

STANDARD CONDITIONS OF SUPERVISION(CONTINUED) INMATE COPY

4) The defendant shall answer truthfully all inquires by the probation officer and follow the instructions of the probation officer.

5) The defendant shall support his or her dependants and meet other family responsibilities.

6) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.

7) The defendant shall notify the probation officer within 72 hours of any change in residence or employment.

8) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotics or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.

9) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered.

10) The defendant shall not associate with any persons engaged in any criminal activity and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.

11) The defendant shall permit a probation officer to visit his or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.

12) The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.

13) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the Court.

14) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

THESE CONDITIONS ARE IN ADDITION TO ANY OTHER CONDITIONS IMPOSED BY THIS JUDGMENT.

JANUARY 17, 1991
Date of Imposition of Sentence

Earl B. Gilliam
Signature of Judicial Officer
EARL B. GILLIAM
UNITED STATES DISTRICT JUDGE
Name & Title of Judicial Officer

Date: JANUARY 17, 1991

WILLIAM W. LUDDY, Clerk
By: C. McDonald
C. McDonald, Deputy Clerk

I hereby attest and certify on 1-18-91 that the foregoing document is a full, true and correct copy of the original on file in my office and in my legal custody.

WILLIAM W. LUDDY
CLERK U. S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
By C. McDonald, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CR 103749 DA B4651602 — AMENDED MINUTES

DATE 01-10-91 AT 10:00 A. M — PROB HEARING-SENTENCING/PLEA WITHDRAWAL HEARING

PRESENT: HON. JESUS RODRIGUEZ JUDGE PRESIDING DEPARTMENT 009

CLERK MAUREEN COLAHAN REPORTER YVONNE MORENO

THE PEOPLE OF THE STATE OF CALIFORNIA VS — E. MILLER ✓ S. RUNNING CLI ✓ DEPUTY DISTRICT ATTORNEY

WALTERS MARTIN E — DEFENDANT — L. AINBINDER ✓ PUB DEF — ATTORNEY FOR DEFENDANT (APPT'D/RETAINED)

VIOLATION OF PC187(A)

DEFENDANT ☒ ~~NOT~~ PRESENT ☐ ARRAIGNED FOR JUDGMENT ☐ WAIVES ARRAIGNMENT

☐ DEFENDANT ADVISED OF RIGHTS AND (ADMITS/DENIES) A VIOLATION OF PROBATION. ☐ WAIVES HEARING

PROBATION IS: ☐ DENIED ☐ REVOKED ☐ REINSTATED ☐ CONTINUED ☐ MODIFIED ☐ GRANTED ____ YEARS (FORMAL/SUMMARY)

PROBATION

☐ IMPOSITION OF SENTENCE IS SUSPENDED. ☐ DEFENDANT SENTENCED TO STATE PRISON, EXECUTION SUSPENDED (SEE BELOW FOR TERM).

CONDITIONS OF PROBATION INCLUDE, BUT ARE NOT LIMITED TO:

☐ COMMITMENT TO SHERIFF FOR ____ DAYS. ☐ ADULT INSTITUTIONS RECOMMENDED. ☐ PAROLE NOT TO BE GRANTED.

☐ FINE OF $ ____ INCLUDING PENALTY ASSESSMENT AT $ ____ PER MONTH, COMMENCING ____ THROUGH REVENUE AND RECOVERY.

☐ RESTITUTION OF $ ____ TO VICTIM/RESTITUTION FUND AT $ ____ PER MONTH, COMMENCING ____ THROUGH REVENUE AND RECOVERY.

☒ RESTITUTION/FINE OF $ 5000 PER GC 13967, ~~XXXXXXXXXXXXXXXXXX~~ per PC2085.5

☐ PARTICIPATION IN COMMUNITY SERVICES PROGRAM IN LIEU OF RESTITUTION.

☐ FOURTH AMENDMENT WAIVER OF PERSON/AUTO/RESIDENCE/PERSONAL EFFECTS. 25 Years to Life

☐ REGISTRATION PER PC 290/H&S 11590. ☐ TEST PER PC 290.2

STATE COMMIT

☒ DEFENDANT IS COMMITTED TO DEPARTMENT OF CORRECTIONS FOR LOWER/MIDDLE/UPPER TERM OF ^ YEARS. (SEE BELOW FOR ADDITIONAL COUNTS) COUNT 8

☐ DEFENDANT IS COMMITTED TO CALIFORNIA YOUTH AUTHORITY. ☐ PER W&I 707.2 ☐ PER W&I 1737 (SEE BELOW FOR FINDINGS)

☐ DEFENDANT IS ADVISED OF APPEAL RIGHTS ☐ DEFENDANT IS ADVISED REGARDING PAROLE

CREDIT FOR TIME SERVED
771 DAYS LOCAL
385 DAYS STATE INST.
___ DAYS PC 4019
1156 TOTAL DAYS CREDIT

CUSTODY STATUS

DEFENDANT REMAINS AT LIBERTY:
☐ ON BOND POSTED $ ____
☐ ON OWN RECOGNIZANCE
☐ ON PROBATION

DEFENDANT REMANDED TO CUSTODY:
☒ WITHOUT BAIL
☐ WITH BAIL SET AT $ ____

☐ DEFENDANT ORDERED RELEASED FROM CUSTODY

FUTURE HRNGS

☐ DEFENDANT WAIVES STATUTORY TIME FOR PRONOUNCEMENT OF JUDGMENT

____ CONTINUED TO/SET FOR ____ AT ____ M IN DEPT. ____ ON MOTION OF COURT/DDA/DEFENDANT/PROBATION OFFICER. REASON:

☐ DEFENDANT REFERRED FOR DIAGNOSTIC EVALUATION PER PC 1203.03. FURTHER HEARING SET FOR ____ AT ____ M IN DEPT. ____

BONDS WRRNTS

☐ BENCH WARRANT TO ISSUE, BAIL SET AT $ ____. SERVICE WITHHELD TO ____.

☐ BENCH WARRANT, ISSUED ____ IS RECALLED.

☐ BOND FORFEITED. BOND AMOUNT ____. BOND NO. ____. BOND COMPANY ____. AGENT ____

☐ BOND IS EXONERATED.

MH

☐ PROCEEDINGS SUSPENDED PER: ☐ PC 1368, MENTAL COMPETENCY. (SEE BELOW FOR DATES OF EXAMINATION AND HEARING.)

☐ W&I 3051 ADDICTION OR DANGER OF ADDICTION. (SEE BELOW FOR DATE OF SERVICE OF PETITION AND ORDER.)

OTHER: ☐ REFERRED TO DEPT. OF REVENUE AND RECOVERY ☐ REPORT TO REGISTRAR OF VOTERS ☐ DMV ABSTRACT

Plea Withdrawal Hearing - Court receives Copy of Plea Agreement Federal Court dated 5-9-90 as Court Exhibit 1, Copy of Supplemental Transcript of Proceedings Federal Court dated 5-8-90 as Court Exhibit 2, Copy of Pages 25-30 of Federal Case 88-0769 Transcript dated 5-9-90, as Court Exhibit 3. The Court denies the defendant's motion for withdrawal of guilty plea.

Probation Hearing & Sentencing - Restitution of $3,629.00 to the victims listed in the Probation Report per GC13967(c). This judgment to be executed on 1-18-91 or after the sentencing in Federal Case 88-0769G. Concurrent to the Federal Case. Committment to be served in Federal Institution.

F KENNETH E. MARTONE Clerk of the Superior Court D
JAN 10 1991 0346
By: S. TALBOTT, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
ABSTRACT OF JUDGMENT
FOR COMMITMENT TO STATE PRISON

THE PEOPLE OF THE STATE OF CALIFORNIA
PLAINTIFF

VS

MARTIN EDWARD WALTERS
DEFENDANT

DATE JANUARY 10, 1991
CASE NUMBER: CR 103749
PRESENT
HON. JESUS RODRIGUEZ
JUDGE OF THE SUPERIOR COURT
EDWIN L. MILLER, Jr., District Attorney
By EVAN MILLER
DEPUTY
LARRY AINBINDER
COUNSEL FOR DEFENDANT
MAUREEN COLAHAN
CLERK
YVONNE MORENO
REPORTER

☐ PROBATION HAVING BEEN HERETOFORE GRANTED AND SAID PROBATION HAVING BEEN REVOKED ON ____________

☒ APPLICATION FOR PROBATION IS DENIED. THE DEFENDANT ~~IS DULY ARRAIGNED~~ (WAIVES FORMAL ARRAIGNMENT).

Count No. 8

f GUILTY . WHEREAS THE SAID DEFENDANT ON HIS PLEA
(GUILTY, NOT GUILTY, FORMER CONVICTION OR ACQUITTAL, ONCE IN JEOPARDY, NOT GUILTY BY REASON OF INSANITY) having

been convicted by COURT of MURDER, 1st degree
(THE COURT OR JURY) (DESIGNATION OF CRIME AND DEGREE IF ANY, INCLUDING FACT THAT IT CONSTITUTES A SECOND OR SUBSEQUENT, IF THAT AFFECTS THE SENTENCE)

VIOLATION OF PENAL CODE SECTION 187, 1st degree
(REFERENCE TO CODE OR STATUTE, INCLUDING SECTION AND SUBSECTION THEREOF, IF ANY VIOLATED.)

AR CRIME COMMITTED IS 1988
: DEFENDANT IS CREDITED FOR TIME SPENT IN CUSTODY, 1156 TOTAL DAYS, INCLUDING:
:TUAL LOCAL TIME 771 PC 4019 CREDIT 385 , STATE INSTITUTIONS TIME ________

: COURT FINDS: (*IF NO FINDING MADE, ENTER "NO FINDING MADE")
NO FINDING MADE. THE DEFENDANT ____________ ARMED WITH A DEADLY WEAPON AT THE TIME OF HIS COMMISSION
(WAS OR WAS NOT)
: THE OFFENSE WITHIN THE MEANING OF SECTIONS 969c and 12022 OF THE PENAL CODE.
NO FINDING MADE. THE DEFENDANT ____________ A FIREARM IN HIS COMMISSION OF THE OFFENSE WITHIN THE
(USED OR DID NOT USE)
ANING OF SECTIONS 969d and 12022.5 OF THE PENAL CODE.
NO FINDING MADE. THE DEFENDANT ____________ ARMED AT THE TIME OF HIS COMMISSION OF THE OFFENSE WITHIN
(WAS OR WAS NOT)
MEANING OF SECTION 1203 OF THE PENAL CODE AND THAT WEAPON WAS

03rJ

THE DEFENDANT HAS HAD PRIOR FELONY CONVICTIONS AS FOLLOWS:

DATE	COUNTY AND STATE	CRIME	DISPOSITION
NOT APPLICABLE			

It is therefore ordered, adjudged and decreed that the defendant be punished by imprisonment in the State Prison of the State of California for the term prescribed by law. It is ordered that the sentences shall be served in respect to one another as follows (CC or CS):

CONCURRENT

and in respect to any prior incomplete sentence(s) as follows (CC or CS):

CONCURRENT TO FEDERAL CASE 88-0769G. Defendant to be held in Federal Facility.

It is further ordered that the defendant be remanded to the Sheriff of the County of San Diego; and pursuant to the aforesaid judgment, this is to command you, the Sheriff, to deliver the defendant into the custody of the ~~Director of Corrections of the State of California at the California Institution for Men at Chino, Women at Frontera, California at your earliest convenience.~~ Federal facility.

The Court (DID NOT) instruct the defendant of his right to appeal in accordance with Rule 250, California Rules of Court.
did / did not

JUDGE OF THE SUPERIOR COURT
JESUS RODRIGUEZ

I certify the foregoing to be a true and correct abstract of the Judgment made and entered on the Minutes of the Superior Court herein.

Dated: JANUARY 10, 1991

KENNETH E. MARTONE
CLERK OF THE SUPERIOR COURT

By________________________Deputy
SHARON TALBOTT

DECLARATION AND PROOF OF SERVICE BY MAIL

I, Matt Braden, declare under the penalty of perjury that I am over the age of 18 years, (X) and not a party, or ~~( ) the party to this action~~ to this action, and reside in Solano County, at P.O. Box 4000, (Cell # 206 up) Vacaville, California, 95696-4000.

That on December, 14, 2007, I deposited in the United States Mail at California State Prison - Solano, Vacaville, California a copy of the attached hereof:

motion for reconsideration and request to proceed per 28 U.S.C. § 2241; with 3 exhibits

in a sealed envelope with postage fully prepaid, and addressed to:

Clerk of the U.S. District Court

Room 4290

880 Front St

San Diego CA 92101-8900

I declare under the penalty of perjury that the foregoing is true and correct. This declaration was executed on this December, 14, 2007, at CSP-Solano, Vacaville, California, 95696-4000.

Matt Braden

DECLARANT